

Town of Amherst
Zoning Board of Appeals
SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2014-00033, for the operation of a Class II Restaurant, d/b/a Monkey Bar/Bistro 63, with accessory music under Sections 3.352.1 and 5.042 of the Zoning Bylaw, at 63-67 North Pleasant Street (Map 14A, Parcel 322, B-G Zoning District), with the following conditions:

Expiration and review

1. This permit is subject to review, at a public meeting, six months from the filing of the decision with the Town Clerk.
 - a. In advance of the meeting, the owner shall be responsible for providing notification to abutters in accordance with Town procedures for notice under Chapter 40A, Section 11. This may require the owner to obtain a Certified List of Abutters and provide a minimum of two week public notice.
2. This permit shall expire on June 1, 2015. The purpose is to cause re-application for the continued use and for the Board to 1) review the management of the use and compliance with the conditions herein, and 2) determine if additional conditions are necessary.

Use

3. The use shall be operated in accordance with the Management Plan Best Practices Site Management, as amended and approved by the Zoning Board of Appeals on May 20, 2014. This shall include, but is not limited to, the following outlined procedures for:
 - a. Entry and exit
 - b. Patron queue management
 - c. Use of covered deck
 - d. Occupancy management and crowd control
 - e. Music
4. All patrons waiting to enter shall be arranged and organized into a line towards the north only. To the maximum extent possible, a shift manager shall actively exercise control over noise created by patrons on the premises or waiting in the queue and shall disperse patrons after the close of the establishment.
5. The interior of the establishment shall be used and maintained in accordance with the floor plan, prepared by Kuhn Riddle AIA, dated March 4, 2014
 - a. The tables and chairs in the "banquet room" and "deck" may be removed for events as described in the approved Management Plan Best Practices Site Management document.
6. The total occupancy of the establishment shall be 240 people as shown on the approved floor plan.

9-7
6/19/14

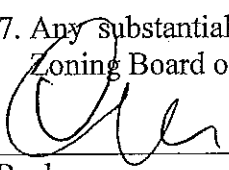
7. The occupancy of the deck may be 26 people when used for dining purposes. After 10:00 p.m., the deck shall be limited to an occupancy of no more than 10 patrons, monitored by a staff person.
8. The hours of operation shall be from 11:00 a.m. to 1:00 a.m., seven days per week. All patrons shall be off the premises by 1:15 a.m.
9. All smoking on the deck area shall comply with all relevant Board of Health regulations.

Music

10. On the deck, music may be played while dining is available. After 10:00 p.m. and/or when dining is no longer available, no music shall be played from the speakers on the deck.
11. Any music played within the establishment shall comply with Section 5.0421, such that sound produced by the proposed entertainment shall not generally exceed 70 dB (A) as measured at any boundary of the property on which the establishment is located.
12. All doors and windows in the banquet room shall remain closed while music is occurring, except for normal entrances and/or emergencies.

General

13. Noise associated with the use shall not be a nuisance and shall not be detrimental or offensive to the adjoining premises. A violation of the Unlawful Noise section of the Town's General Bylaw may constitute a violation of this condition.
14. Any changes to the operation of the use, Management Plan, floor plan, or exterior changes shall be reviewed by the Board at a public meeting. The purpose of the public meeting shall be to determine whether a change is minor, or significant enough to require modification of the permit.
15. The use of any LED lights facing the building shall be extinguished at end of business. No strobe or blinking lights shall be allowed on the exterior of the building.
16. Trash shall be stored in the enclosed structure as described in the Management Plan and the property and immediate vicinity shall be kept free and clear of litter.
17. Any substantial changes to the signs shall be reviewed and approved by the DRB and the Zoning Board of Appeals at a public meeting.


Eric Beal

Amherst Zoning Board of Appeals

6/19/14
DATE

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Bistro 63 Monkey Bar, LLC, 63 North Pleasant Street, Amherst, MA 01002
Owner: Galleria Realty Company, LLC, 12 Ladyslipper Ln, Hadley, MA 01035

Date application filed with the Town Clerk: April 16, 2014

Nature of request: For a Special Permit to operate a Class II Restaurant, with accessory live or pre-recorded music, under Section 3.352.1 and 5.042 of the Zoning Bylaw

Address: 63-67 North Pleasant Street (Map 14A, Parcel 322, B-G, DR, MPD Zoning Districts)

Legal notice: Published on April 23, 2014 and April 30, 2014 in the Daily Hampshire Gazette and sent to abutters on April 23, 2014

Board members: Eric Beal, Keith Langsdale, Carolyn Holstein

Staff members: Jeff Bagg, Senior Planner; Rob Morra, Building Commissioner

Submissions:

- Application form filed with the Town Clerk on April 16, 2014
- Cover letter from Bacon/Wilson, dated April 1, 2014
- Applicant's Project Summary & Management Plan and aerial photograph
- Floor Plan, prepared by Kuhn Riddle Architects, dated March 4, 2014
- Proposed 10.38 findings, submitted by applicant
- Letter from Bacon/Wilson, dated April 1, 2014 with submission waivers
- Building Elevations, prepared by Kuhn Riddle Architects, dated June 19, 2002
- Existing conditions photographs (x 8)
- ZBA FY2003-0001, with approved plans

Site Visit: May 6, 2014

Eric Beal, Keith Langsdale, and Carolyn Holstein, met the applicant's, Rasif and Rabib Rafiq, attorney Peter MacConnell, and current owner Mauro Aniello on-site. The following was observed:

- The location of the establishment fronting along the east side of North Pleasant Street and its location in-between Starbucks to the north and Stacker's Pub to the south.
- The interior of the restaurant/bar area, banquet room and rear deck area.
- The rear exterior of the establishment along Boltwood Walk. The building contains two commercial establishments; Matt's Barber Shop and Sei Bella Salon and entrance stairs to the second floor deck and banquet area, and the location of the trash enclosure.
- A new mixed-use building to the south, containing one commercial/retail establishment.

Public Hearing: May 8, 2014

The applicant, Rasif Rafiq, was accompanied by his attorney, Peter MacConnell, of Bacon/Wilson, P.C. Mr. MacConnell summarized the application as follows:

- The applicant, Rasif Rafiq and his brother, Rabib Rafiq, are partners in Bistro LLC, which has an option to purchase the business from the current owner, Mauro Aniello.
- Mr. Aniello was granted a Special permit in 1998 to operate a 46 person restaurant. In 2000, the Special Permit was modified to allow the increase in occupancy for certain functions and to enclose the rear deck.
- In 2003, the Special Permit (ZBA FY2003-00001) was again modified to allow a significant expansion of the building, increased occupancy, creation of the back deck, and a rear entrance. It was noted that this coincided with the Town's construction of the parking garage and creation of a new streetscape along the parking garage and the backside of this building, known as Boltwood Walk.
- A condition of the 2003 permit states that the permit expires upon change of ownership or management. Currently, the applicant is in negotiations to purchase the business entity, with Mr. Aniello maintaining ownership of the property. The agreement establishes a five-year lease, with a second five-year renewal option. The applicant has obtained approval from the Select Board to transfer the liquor license and is now seeking this Special Permit.
- There will be no changes to signs, exterior of the building, or existing trash enclosure. There will be no physical changes to the interior of the restaurant. The new owners will continue the operation as a restaurant, banquet facility, and nightclub and will maintain the same hours of operation and general management of trash and recycling, snow removal, etc.
- The applicant has been working at the restaurant for six years and has been responsible for the full range of tasks associated with operating the business. His business partner will be his brother.

Mr. MacConnell identified two aspects of the 2003 Special Permit that would be changed as part of the request: 1) permission to remove the tables and chairs from the banquet room during later hours, and 2) eliminate the expiration upon change in ownership condition.

The Board discussed the use of the banquet room. The applicant stated that during the day and early evening the banquet room and deck are used for dining. The banquet room also is used for private events, such as wedding receptions, business luncheons, bridal showers, etc. When the space is not booked for a private event, there are DJ's providing music during the evening; this is open to the public and is generally for a younger college-aged audience. When the banquet room is used for a DJ or other music, the tables and chairs are removed. It was noted that Condition # 2 of the 2003 permit prohibited the removal of the tables and chairs.

The Board discussed the volume and type of music. The applicant identified that speakers exist in the deck area, but they are only used for playing music during lunch and dinner. During those times, the music is at a low volume for the diners. The speakers do not play music on the deck during later hours. The Board noted the submitted letter from David Williams which identified noise complaints related to the loud music late at night. The applicant explained that there had been an issue with the volume and vibration from the bass created by a subwoofer. Upon learning of the complaint, the subwoofer was removed.

The Board identified that there is a distinction between operating a restaurant and operating a night club, noting that additional management of music volumes will be necessary during the later evenings. The Board also noted that Section 5.042 of the Zoning Bylaw contains specific provisions related to the volume of music. The applicant stated that all windows and doors are kept closed while there is louder music in the banquet room. Additionally, a staff person monitors both of the exit doors at the rear of the banquet room to ensure they do not remain open for extended periods of times while music is played.

The Board discussed the use of the deck. The applicant identified that the deck is used for dining until the early evening. During that time, the tables and chairs are in place and food and drinks are provided via a server. During the later hours, after 10:00 p.m., the tables and chairs are removed from the deck and the area is used to allow patrons to smoke cigarettes. The applicant explained that when the nightclub is operating a door person restricts the number of people on the deck to five at a time and patrons are not allowed to consume alcohol on the deck. As noted previously, music is not played on the deck during later hours. The Board noted that the 2003 decision reference to the Board of Health restriction on smoking on the deck. Mr. Bagg explained that the current Health Director inspected the deck area and determined that there are no current Board of Health regulations which would prohibit smoking on the deck. It was noted that the Board of Health regulations do prohibit smoking where food is served. The applicant acknowledged that smoking is only allowed on the deck after 10:00 p.m. when dining service has ended.

The Board discussed the location of the main entrance. The Board noted that the 2003 decision identified North Pleasant Street as being the main entrance. The applicant explained that in 2013 they relocated the main entrance from North Pleasant Street to Boltwood Walk during the later evening hours. They explained that it was easier to monitor patrons entering the building by confining them to the Boltwood Walk side and limiting North Pleasant Street to emergency exits. The patrons generally form a line going up the stairs. For short periods of times, the line of patrons may extend beyond the stairs and onto the sidewalk in which case a rope barrier is used to arrange the patrons in a line on the sidewalk. The patrons are lined up towards the south.

The following members of the public spoke regarding the application:

- David Williams, Shays Street, stated that he is a partner in Archipelago Investments who built Boltwood Place. He stated that he has had a good relationship with the current owner of the Monkey Bar and looks forward to working with the new owners. He stated that they do not object to the use, but expressed concerns about the more recent increase in the nightclub activity on Thursday, Friday and Saturday evenings. He stated that most restaurants and bars face North Pleasant Street, and the recent relocation of the entrance to Boltwood Walk has increased the impact of noise from patrons on the deck and waiting to enter. This increase in noise on Boltwood Walk is his biggest concern.
- Judy Teraspulskey, co-owner of Judie's Restaurant, explained that she has been observing the late night activities over the past several months. She stated that the primary generator of noise is created by the Monkey Bar patrons and music. Specifically, the bass from the DJ music caused one tenant to leave their building, located directly south from the Monkey Bar. She acknowledged that the applicant has removed the bass issue, but that the music from the banquet hall is still very loud and audible on the Boltwood Walk side of the building. She expressed concern with the noise impact from the phenomenon of patrons gathered awaiting

entry who mingle with the people on the deck. Ms. Teraspulsky stated that the interaction of people on the deck with patrons waiting to enter has created a significant nuisance. There is noise from yelling between patrons on the deck and patrons waiting to enter. She explained that the same noise occurs when all the patrons leave at the end of the night and often congregate in the Boltwood Walk area. She stated that strobe lights have recently been added at the rear of the building in the vicinity of the line for patrons entering which has created an outdoor disco effect. She noted that other establishments, such as Lit and Stackers, do create noise, but that she has taken videos which shows the primary producer of noise from music and patrons is the Monkey Bar.

- Kyle Wilson, stated that he is a partner in Archipelago Investments. He explained that he had met with the current owner and the applicant recently to discuss noise. He noted that although the most recent noise issue related to the bass subwoofer was resolved, his concern relates to the evolution of the use from a restaurant to more of a nightclub. He stated that he does not oppose the nightclub use, but believes that additional mitigation measures are needed to ensure the use does not have a negative impact on the area. He stated that other establishments are part of the problem, such as Stackers Pub, which has speakers mounted on the patio. This is not in compliance with their Special Permit which does not allow outdoor music. However, the use of the Monkey Bar deck as a smoking area is more problematic as the patrons using it create a lot of additional noise. The noise from the patrons on the deck are exacerbated when the line of patrons waiting to enter interact with the patrons already on the deck; this creates a social event with patrons generating a lot of noise by yelling and screaming.

Mr. MacConnell responded that the applicants propose to maintain the use as an upscale restaurant, banquet facility and as a gathering place for younger people to enjoy music. He stated that the proposal is of minimal impact when considered in the context of the neighborhood, which contains various other establishments that contain similar uses. He argued that the noise issues cannot be solely blamed on the Monkey Bar, noting the illegal outdoor music at Stacker's Pub, the nightclub use at Lit, and the late-night outdoor dining area at White Hut all contribute to the noise issues.

Mr. Rafiq stated that 90% of their business revenue is generated by the restaurant and that only a small portion from the nightclub use. He stated that part of the new focus on the Monkey Bar is due to the recent creation of new residential units in close proximity.

The Board discussed continuing the public hearing and requested the following information:

- A more detailed Management Plan, including more detailed information related to the overall use of the property, staff responsibilities, noise management strategies for music, and patron management.
- Copies of recent permits for the establishments in the vicinity.

The applicant inquired whether the Board could approve the application subject to the submission of the requested information. However, given the importance of the issues, the Board opted to not vote until it has the additional information to rely on in rendering a decision.

Mr. Beal MOVED to continue the public hearing to May 20, 2014. Ms. Holstein SECONDED the motion and the Board VOTED unanimously to continue the public hearing to May 20, 2014.

Public Hearing: May 20, 2014

The applicant, Rasif Rafiq, was accompanied by his attorney, Tom Reidy of Bacon/Wilson P.C., and the current owner of the Monkey Bar, Mauro Aniello.

The following new information was submitted:

- Management Plan Best Practices Site Management document
- Crowd Manager and SAFE certification
- Proof of tenant notification
- Memorandum, dated May 20, 2014, from Building Commissioner Rob Morra
- Copies of ZBA FY2011-00022 (White Hut), FY2011-0006 (Lit), 2009-00017 (Stacker's Pub)
- Letters in support from Jesse Levangie, dated May 3, 2014, Sisters on the Runway , Alternative Spring Break, dated February 6, 2014
- Photograph from Facebook of the crowd outside, waiting to enter the Monkey Bar, submitted by Kyle Wilson

Mr. Reidy stated that he did not attend the last hearing, but understands the Board requested a range of additional information including plans for crowd and noise management. A revised Management Plan Best Practices Site Management addendum has been provided which delineates the procedures in place now and to be performed in the future.

Mr. Reidy asked if some members of the public could speak on behalf of the applicant:

- John Stavropoulos, 34 Main Street, Apt #9, stated that he manages the Main Street Subway in Amherst. He explained that he has lived here for six years and has known the applicant for five years and believes that he will operate a good business in a controlled environment.
- Mauro Aniello, 12 Ladyslipper Lane, Hadley, stated that he has been in the area since 1980. He established Monkey Bar in 1999 and gave part of his property to the Town for the garage because it would help enhance the area. Since then, the Boltwood Walk area has become more vibrant and now includes White Hut, Lit, and the new Boltwood Place building. He stated that limiting the access to the establishment to North Pleasant Street would be unfair, unnecessary, and goes against the purpose of developing the Boltwood Walk area which was intended to increase activity. He explained that requiring patrons to walk through the entire establishment is a disruption to the diners in the dining area, especially when there are private special events.
- The additional member of the public spoke: Kyle Wilson, partner in Archipelago Investments, stated that while the applicant claims that only a small portion of the revenue comes from the nightclub use, all of the issues related to noise and nuisances are created by that use. He stated that patrons using the deck and congregating on the sidewalk create significant disturbances and noise. He submitted a photograph purportedly from the Monkey Bar's Facebook page showing an unorganized and large number of people congregating on the sidewalk at the back of the property while waiting to enter. He stated that he wants the application to be approved, but to have the noise issues resolved. He suggested that one solution would be to close the back deck during the later evenings.

Mr. Rafiq stated that the photograph was taken in October 2013 just after they implemented the change in entrances and that the unorganized crowd no longer occurs. He explained that occasionally for a larger event, the crowd extends out onto the sidewalk, but staff then lines up the patrons.

The Board discussed the use of the back deck. Mr. Reidy stated that closing the back deck would not be a viable solution. Mr. Rafiq stated that it would have a significant negative impact on the business if the back deck were to be closed after 10:00 p.m. The Board noted that the revised Management Plan notes a maximum of 25 people on the deck, but that earlier testimony indicated that the deck is limited to five patrons at a time. Mr. Reidy noted that 25 people is the legal occupancy of the deck; that is the number allowed for dining purposes. The applicant would like to limit the number of people to 10 for smoking during later hours. He noted that the occupancy of the patio at Stacker's is significantly higher, and there are often 40 people on that patio with more noise generated by those people than their deck. The Board determined that the limit of 10 people on the deck was reasonable; however, if noise issues persist, that number may need to be reduced, or the use of the deck be reconsidered.

The Board discussed the main entrance location. The applicant stated that after 10:00 p.m. patrons are directed to enter from the rear Boltwood Walk entrance. The Board acknowledged receiving a memorandum from the Building Commissioner, Rob Morra, summarizing comments of the Amherst Police Chief. The Board read it into the record:

The Police Chief explained that it is critical to prevent patrons of the after dinner activities from exiting out the rear of the building to Boltwood Walk and strongly recommends that the entrance on North Pleasant Street remain the primary point of entry and exit during the late hours of operation. The required use of the door in this manner is consistent with the 2003 Special Permit proposal. The real exit to Boltwood Walk should be used as an emergency exit only and Bistro 63 staff should direct their customers toward the North Pleasant Street when exiting the building. Chief Livingstone further explained that APD maintains a presence on North Pleasant Street to monitor the area during the closing time of multiple establishments.

The Board acknowledged the importance of getting a direct recommendation from the Police Chief. The Chair noted that closing the deck and rear entrance during the later hours would appear to resolve many of the issues. Mr. Reidy stated that to close the deck and the rear entrance would result in a significant negative impact to the business. He noted that there have been no police calls related to the deck or entrance. He asked the Board whether there could be an opportunity to test the continued use of the deck and rear entrance under the new owner's management.

The Board discussed the continued use of the rear entrance and deck on a trial basis, via conditions that would require a review of the bar's management after a limited period of time. The Board noted that management of noise and the activity of patrons waiting to enter and those exiting after closing time is critical. Additionally, ensuring that music can be maintained at levels that are not a nuisance to abutters is essential. It was emphasized that the use of the Boltwood Walk entrance would be in jeopardy if not properly controlled. In order to allow enough time for the use to be evaluated during a fall and spring semester, the Board determined that the permit shall expire on June 1, 2015. The expectation would be re-application prior to the expiration date for the Board to evaluate whether the use has been managed as conditioned in the Special Permit. The Board also determined that the use should be reviewed six months from filing of the decision with the Town Clerk as a more informal review.

Mr. Wilson stated that Archipelago Investments had prepared a letter, but did not submit it. The letter requested the Board to consider requiring the closure of the smoking deck, relocation of the entrance back to North Pleasant Street, and the removal of the strobe light.

Understanding the Board will be approving the use, albeit for one year, Mr. Wilson asked that the Board require the owners queue the line of patrons waiting to enter to the north, away from the residents in Boltwood Place. This would arrange the line in front of two commercial establishments that are closed rather than next to 12 residential units. The Board acknowledged this would be a sensible requirement and would separate the queue line from the deck patrons and move the line away from residential uses. The Board also noted that the use of the strobe light shall be eliminated.

Findings:

The Board found under Section 3.352.1 and 12.41, the following:

3.352.1 and 12.41 - *For serving food or beverage to persons inside the building, where: a) the establishment is open after 11:30 p.m. whether alcohol is served or not, or; b) regardless of hours of operation, where alcohol is served and any outside wall of that portion of the building occupied by the establishment is located 150 feet or less from any residential dwelling in a Residence district. A management plan, as defined in terms of form and content by the permit granting board or authority, shall be included as an integral part of any application made under this section. The management plan shall address patrons gathered outdoors on the property, including those awaiting entry. Any service of food or beverages outside the building shall be to persons seated at tables for the purpose of outdoor dining; 12.41 -Restaurant: An establishment or part of an establishment devoted primarily to the service and consumption of food and beverages on the premises. Any such establishment shall be considered a restaurant if the service of food is its primary activity and the service of alcoholic beverages, if any, is incidental to the sale, service and consumption of food and non-alcoholic beverages.* The Board found that the use is a Class II Restaurant as the primary use of the space is to serve food, with the nightclub aspect of the use being limited to evenings and weekends. The Board further finds that, based on testimony, that the establishment maintains a liquor license as a restaurant and not a bar. The updated Management Plan Best Practices Site Management document provides adequate provisions related to the management of patrons.

The Board found under Section 5.014, the following:

5.042 - *Live or pre-recorded entertainment involving music and/or human voice, whether amplified or unamplified, may be permitted in the B-G, B-L, B-VC, B-N and COM districts as an accessory use to a restaurant, bar, inn or bed and breakfast (Section 5.0102 only) under a Special Permit or Site Plan Review, whichever is required for the principal use, except that a Special Permit shall be required whenever any accessory entertainment is proposed and any outside wall of that portion of the building occupied by the principal use is located 150 feet or less from a residential dwelling in a Residence district. 5.0420* - *Such entertainment shall be clearly accessory and incidental to the principal use.* The Board found that based on the Management Plan and testimony that the accessory live and pre-recorded music use is accessory to the principal use of the establishment as a restaurant.

5.0421 - *Sound produced by the proposed entertainment shall not generally exceed 70 dB (A) as measured at any boundary of the property on which the establishment is located, as determined by the regulations adopted pursuant to Section 5.0422.* The Board found that this criteria is met through a condition containing the same limitation as stated in the Bylaw. After discussion, the Board concluded that this is the most measurable way to regulate the sound of music in the event of a complaint.

5.0422 - In order to develop reasonable and effective conditions under this section, the Planning Board shall develop regulations for the measurement of sound undertaken under Section 5.0421, and may require such information as it may deem necessary. The permit granting board or authority may impose a probationary period involving one or more monitoring tests, including but not limited to sound measurements taken during live performances and/or use of sound systems. Permit conditions may include, but are not limited to, requirements for sound-proofing, limits on volume within rooms where entertainment occurs, and any other reasonable measures the permit granting board or authority may deem necessary. The Board found that the testimony from the abutter that issues with excessive music, bass in particular, were dealt with that the music volumes could be kept under control. The Board conditioned the permit with a six month review at a public meeting (with notice to abutters required) and expiration of the permit in one year to ensure that there would be adequate opportunities to assess and monitor the entire use of the premises, including but not limited to, the volume of music.

Specific Findings:

The Board found under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381 - The proposal is suitably located in the neighborhood in which it is proposed and/or the total Town, as deemed appropriate by the Special Permit Granting Authority; The proposal is compatible with existing Uses and other Uses permitted by right in the same District. The proposal continues the use as a Class II restaurant with accessory music where similar uses exist in the vicinity, including establishments whose sole access is from Boltwood Walk, such as Lit and White Hut. The Management Plan provides for adequate procedures for organizing patrons waiting to enter, monitoring patrons using the deck, controlling the volume of music, and monitoring occupancy.

10.382, 10.383 & 10.385 - The proposal would not constitute a nuisance due to air and water pollution, flood, noise, odor, dust, vibration, lights, or visually offensive structures or site features; The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians; The proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site, including air and water pollution, flood, noise, odor, dust, vibration, lights or visually offensive structures or site features. The Management Plan and conditions are intended to eliminate nuisances or offensive impacts of the use. The conditions for review after six months and expiration in 12 months will allow the Town to ensure that the use operates in accordance with the conditions and to evaluate the effectiveness of the strategies and conditions related to noise and crowd management.

10.384 Adequate and appropriate facilities would be provided for the proper operation. The proposal includes all requisite facilities to allow the use as a Class II restaurant with accessory music, including but not limited to a kitchen, restrooms, dining facilities and emergency/handicapped accessible entrances, and appropriate numbers of staff.

10.386 The proposal ensures that it is in conformance with the Parking and Sign regulations (Articles 7 and 8, respectively) of this Bylaw. The property is located within the Municipal Parking District, as such; no additional parking for the use is required on-site. The property and use are situated within the Municipal Parking District where no parking is required on-site. The signs for the establishment were previously permitted and no changes are proposed.

10.387 - The proposal provides convenient and safe vehicular and pedestrian movement within the site, and in relation to adjacent streets, property or improvements. With respect to pedestrian movement, a condition of the permit requires that patrons waiting for entry line up to the north. The purpose is to reduce the potential noise impact to the residential uses in Boltwood Place and arrange patrons in front of commercial establishments which are closed during the later hours.

10.388 - The proposal ensures adequate space for the off-street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishment or use. The proposal maintains the operation of a Class II restaurant where the loading and unloading of vehicles is common and the general operation will continue as it has since 2003.

10.389 & 10.396- The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables, and other wastes resulting from the uses permitted or permissible on the site, and methods of drainage for surface water; The proposal provides screening for storage areas, loading docks, dumpsters, rooftop equipment, utility buildings and similar features. The proposal provides for an area for trash storage that is enclosed and screened from view.

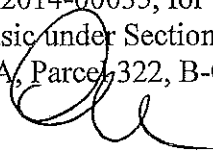
10.393 - The proposal provides protection of adjacent properties by minimizing the intrusion of lighting, including parking lot and exterior lighting, through the use of cut-off luminaries, light shields, lowered height of light poles, screening, or similar solutions. A condition of the permit requires that an existing strobe light mounted at the back of the building during later hours be removed. Additionally, any LED color lighting facing the building, and other lights associated with the use, will be extinguished at the end of each business day.

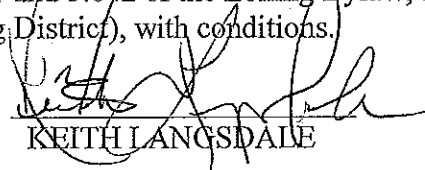
10.398- The proposal is in harmony with the general purpose and intent of this Bylaw, and the goals of the Master Plan. The permit is conditioned to require a review after six months and expiration in 12 months will allow the Town to ensure that the use operates in accordance with the conditions and to evaluate the effectiveness of the strategies and conditions related to noise and crowd management. Otherwise, the Board finds that the use is compatible in the B-G Zoning District, the purpose of which is to "to provide for a mixed use area, of high density, containing a wide variety of commercial, office, residential, institutional, civic, and cultural uses. To this end, it is intended that this district be applied within the Town Center of Amherst". The proposal meets several goals of the Master Plan including supporting "sustainable growth of existing businesses and attract new ones while protecting environmental values", "relocalization of the Amherst economy", and promoting "downtown as a key cultural, commercial and entertainment center of Amherst".

Zoning Board Decision

Mr. Parent MOVED to approve the application with conditions. Mr. Langsdale seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2014-00035, for the operation of a Class II Restaurant, d/b/a Monkey Bar/Bistro 63, with accessory music under Sections 3.352.1 and 5.042 of the Zoning Bylaw, at 63-67 North Pleasant Street (Map 14A, Parcel 322, B-G Zoning District), with conditions.


ERIC BEAL


KEITH LANGSDALE


CAROLYN HOLSTEIN

(18)

FILED THIS 20th day of June, 2014 at 1:53 PM,
in the office of the Amherst Town Clerk Susan Audette, Asst.
TWENTY-DAY APPEAL period expires, July 10, 2014.
NOTICE OF DECISION mailed this 23rd day of June, 2014
to the attached list of addresses by Jeffrey R. Bagg, for the Board.
COPY OF NO APPEAL issued this _____ day of _____, 2014.
NOTICE OF PERMIT or Variance filed this _____ day of _____, 2014,
in the Hampshire County Registry of Deeds.

Parcel_ID	Parcel_Address	Owner1	Owner2	Address	City/Zip
14A-337	11 AMITY ST	EV REALTY TRUST	ROBERTS, EVERETT TRUSTEE	P.O. BOX 678	AMHERST, MA 01004-0678
14A-36	43 AMITY ST	JONES LIBRARY INC	ATTN: TREASURER	43 AMITY ST	AMHERST, MA 01002
14A-4-61	30 BOLTWOOD WALK	CARSP REALTY INC		30 BOLTWOOD WALK	AMHERST, MA 01002
14A-2-61	30 BOLTWOOD WALK	FARBER, BODZIN LLC		30 BOLTWOOD WALK #2	AMHERST, MA 01002
14A-1-61	30 BOLTWOOD WALK	PVP HOLDINGS LLC		20 BELCHERTOWN RD	AMHERST, MA 01002
14A-5-61	30 BOLTWOOD WALK	SLATER, JONATHAN & OLGA		112 LONGVIEW DR	LONGMEADOW, MA 01106
14A-3-61	30 BOLTWOOD WALK	THE BOLTWOOD GROUP LLC		705 MEMORIAL DR	CHICOPEE, MA 01020
14A-54	31 BOLTWOOD WALK	31 BOLTWOOD LLC		25 NO PLEASANT ST 2ND FLOOR	Amherst, MA 01002
14A-E-49	45 BOLTWOOD WALK	AMHERST KNIGHTS OF COLUMBUS	C/O WILLIAM A HUTCHINSON	52 JEFFREY LN	AMHERST, MA 01002
14A-343	51 BOLTWOOD WALK	TOWN OF AMHERST (INHABITANTS)		4 BOLTWOOD AVE	AMHERST, MA 01002
14A-305	70 BOLTWOOD WALK	TOWN OF AMHERST (INHABITANTS)		TOWN HALL	AMHERST, MA 01002
14A-64	17 KELLOGG AVE	17 KELLOGG AVE LLC		25 NORTH PLEASANT ST 2ND FLOOR	AMHERST, MA 01002
14A-65	33 KELLOGG AVE	AMHERST HOUSING AUTHORITY		33 KELLOGG AVE	AMHERST, MA 01002
14A-G2-53 4	MAIN ST	COOK BLOCK ASSOCIATES		PO BOX 678	AMHERST, MA 01004-0678
14A-1A-53 4	MAIN ST	COOK BLOCK ASSOCIATES		PO BOX 678	AMHERST, MA 01004-0678
14A-G1-53 8-12	MAIN ST	COOK BLOCK ASSOCIATES		PO BOX 678	AMHERST, MA 01004-0678
14A-1B-53 8	MAIN ST	COOK BLOCK ASSOCIATES		PO BOX 678	AMHERST, MA 01004-0678
14A-1C-53 8	MAIN ST	COOK BLOCK ASSOCIATES		PO BOX 678	AMHERST, MA 01004-0678
14A-55	16-18 MAIN ST	RUSSELL, WILLIAM F JR	RUSSELL, RAPHAEL A	3 SUNRISE DR	AMHERST, MA 01035
14A-56	24-26 MAIN ST	SISU REALTY CO LLC		90 NORTH VALLEY RD	HADLEY, MA 01035
14A-57	30-36 MAIN ST	AMHERST BUILDING LLC		200 BAY RD	Amherst, MA 01002
14A-58	40-50 MAIN ST	40-50 MAIN ST LLC		25 NO PLEASANT ST 2ND FLOOR	Amherst, MA 01002
14A-59	60-62 MAIN ST	CHANG, TSO-CHEN & ROSE CO-TRUSTEES		60 MAIN ST	AMHERST, MA 01002
14A-94	NORTH PLEASANT ST	TOWN OF AMHERST		4 BOLTWOOD AVE	AMHERST, MA 01002
14A-3A-53 7	NORTH PLEASANT ST	COOK BLOCK ASSOCIATES		PO BOX 678	AMHERST, MA 01004-0678
14A-2A-53 7	NORTH PLEASANT ST	SOUTHWICK, SANDRA M		29 LAUREL HILL DR	LEVERETT, MA 01054
14A-51	11-19 NORTH PLEASANT ST	MGM BUILDING LLC		25 NO PLEASANT ST 2ND FLOOR	Amherst, MA 01002
14A-50	23-25 NORTH PLEASANT ST	GRANDONICO PROPERTIES LLC		25 NORTH PLEASANT ST 2ND FLOOR	AMHERST, MA 01002
14A-52	31 NORTH PLEASANT ST	REVES AMHERST PIZZA PROPERTY, LLC		31 NORTH PLEASANT ST	AMHERST, MA 01002
14A-49	37 NORTH PLEASANT ST	AMHERST KNIGHTS OF COLUMBUS	C/O WILLIAM A HUTCHINSON	52 JEFFREY LN	AMHERST, MA 01002
14A-48	43-51 NORTH PLEASANT ST	IAT PARTNERSHIP, LLP		43-51 NORTH PLEASANT ST	AMHERST, MA 01002
14A-40	48 NORTH PLEASANT ST	D'ANGELO INC	ATTN: PROPERTY TAX DEPT #821	P.O. BOX 519	WEST BRIDGEWATER, MA 02379-0519
14A-47	55 NORTH PLEASANT ST	RAILROAD STREET PARTNERS LLC	C/O EAGLE CREST PROPERTY MNGMT	55 NORTH PLEASANT ST	AMHERST, MA 01002
14A-322	63-69 NORTH PLEASANT ST	GALLERIA REALTY COMPANY	C/O ANIELLO, MAURO & CLAIRE	12 LADYSLIPPER LN	HADLEY, MA 01035
14A-41	68 NORTH PLEASANT ST	TOWN OF AMHERST (INHABITANTS)		TOWN HALL	AMHERST, MA 01002
14A-344	71 NORTH PLEASANT ST	GALLERIA REALTY COMPANY LLC	C/O ANIELLO, MAURO & CLAIRE	12 LADYSLIPPER LN	HADLEY, MA 01035
14A-42	76 NORTH PLEASANT ST	BARDEN, MARY ELLEN PAPPAS TRUSTEE		1639 N E 26 STREET APT 217	WILTON MANORS, FL 33305
14A-45	87 NORTH PLEASANT ST	87 NORTH PLEASANT ST FAMILY PA		P.O. BOX 678	AMHERST, MA 01004-0678
14A-43	96-110 NORTH PLEASANT ST	ROBERTS, EVERETT L TRUSTEE	EV REALTY TRUST	P.O. BOX 678	AMHERST, MA 01004-0678
14A-44	103 NORTH PLEASANT ST	ROBERTS, BARRY L		P.O. BOX 678	AMHERST, MA 01004-0678
11C-288	121 NORTH PLEASANT ST	UNITY CHURCH	UNITARIAN UNIVERSALIST SOC OF AMHERST	PO BOX 502	AMHERST, MA 01002
11C-234	122 NORTH PLEASANT ST	ROMAN CATHOLIC BISHOP OF SPELD		P.O. BOX 1750	SPRINGFIELD, MA 01101-1750
11C-287	141 NORTH PLEASANT ST	UNITED STATES POST OFFICE	ATTN: REAL ESTATE DIVISION	6 GRIFFIN RD NO	WINDSOR, CT 06095
14A-327	NORTH PROSPECT ST	BARDEN, MARY ELLEN PAPPAS TRUSTEE		1639 N E 26 STREET, APT 217	WILTON MANORS, FL 33305

BOARD OF APPEALS
AMHERST, MASSACHUSETTS
RECORD OF APPEALS AND DECISION RENDERED

Petition of Bistro 63 Monkey Bar, LLC

For A Special Permit to operate a Class II Restaurant, with accessory live or pre-recorded music, under Section 3.352.1 and 5.042 of the Zoning Bylaw

On the premises of 63-67 North Pleasant Street

At or on Map 14A, Parcel 322, B-G Zoning District

NOTICE of hearing as follows mailed (date) April 23, 2014
to attached list of addresses and published in the Daily Hampshire Gazette
dated April 23, 2014 and April 30, 2014

Hearing date and place May 8, 2014 and May 20, 2014 (Town Hall)

LEGAL NOTICE
The Amherst Zoning Board of Appeals will meet on "Thursday, May 8, 2014", at 6:30 P.M. in the Town Room, Town Hall, to conduct the following business:
PUBLIC HEARINGS:
ZBA FY2014-00034 - Inge Ackermann - For a Special Permit to structurally alter and expand a pre-existing non-conforming single family dwelling, under Section 9.22 of the Zoning Bylaw, at 59 Sunset (Map 11C, Parcel 26, R-G Zoning District).
ZBA FY2014-00035 - Bistro 63 Monkey Bar, LLC - For a Special Permit to operate a Class II Restaurant, with accessory live or pre-recorded music, under Section 3.352.1 and 5.042 of the Zoning Bylaw, at 63-67 North Pleasant Street (Map 14A, Parcel 322, B-G, DR, MPD Zoning Districts).
Eric Beal, Chair
Amherst Zoning Board Of Appeals
April 23, 30
3292187

SITTING BOARD and VOTE TAKEN:

To grant a Special Permit, ZBA FY2014-00035, for the operation of a Class II Restaurant, d/b/a Monkey Bar/Bistro 63, with accessory music under Sections 3.352.1 and 5.042 of the Zoning Bylaw, with conditions

Eric Beal - Yes Keith Langsdale - Yes Carolyn Holstein - Yes

DECISION: APPROVED with conditions

THE COMMONWEALTH OF MASSACHUSETTS
AMHERST

City or Town
NOTICE OF SPECIAL PERMIT
Special Permit
(General Laws Chapter 40A)

Notice is hereby given that a Special Permit has been granted

To Bistro 63 Monkey Bar, LLC

Address 63 North Pleasant Street

City or Town Amherst, MA 01002

Identify Land Affected: 63-67 North Pleasant Street
(Map 14A, Parcel 322, B-G Zoning District)

By the **Town of Amherst Zoning Board of Appeals** affecting the rights of the owner
with respect to the use of the premises on

63-67 North Pleasant Street Amherst
Street City or Town

The record of title standing in the name of
Galleria Realty Company, LLC
Name of Owner

Whose address is 12 Ladyslipper Lane Hadley MA 01035
Street City or Town State Zip Code

By a deed duly recorded in the
Hampshire County Registry of Deeds: Book 6097 Page 099
or

Hampshire Registry District of the Land Court, Certificate No. _____,
Book _____, Page _____

The decision of said Board is on file, with the papers, in ZBA FY2014-00038 8.7. 6/12/14
In the office of the Town Clerk Sandra J. Burgess

Certified this _____ day of _____

Board of Appeals:

[Signature] Chairman
(Board of Appeals)
[Signature] Clerk
(Board of Appeals)

_____ at _____ o'clock and _____ minutes _____ m.
Received and entered with the Register of Deeds in the County of Hampshire
Book _____ Page _____

ATTEST

Register of Deeds
Notice to be recorded by Land Owner